

<sup>3</sup> On July 6, 2015 appellant submitted a timely request for oral argument. After exercising its discretion, the Board, in an order issued on February 19, 2016, denied her request, finding that the arguments on appeal could be adequately addressed in a decision based on a review of the case record. *Order Denying Request for Oral Argument*, Docket No. 15-1504 (issued February 19, 2016).

## **ISSUE**

The issue is whether appellant has established an injury causally related to the factors of her federal employment.

## **FACTUAL HISTORY**

On July 15, 2014 appellant, then a 47-year-old human resources specialist, filed an occupational disease claim (Form CA-2) wherein she alleged that repetitive motion and heavy workload requirements of her federal employment caused her extreme upper extremity pain, specifically neck, shoulder, and hand pain.

In an accompanying statement, appellant indicated that she filed prior claims in OWCP File Nos. xxxxxx657, xxxxxx502, xxxxxx116, and xxxxxx301. She noted that she had been on medical leave since the beginning of April 2014, and had been diagnosed with bilateral carpal tunnel syndrome and received Cortisone shots in her wrists. Appellant further noted that she had now been diagnosed with a collapsed disc that was putting pressure on her nerves, and that she had surgery on June 12, 2014. She alleged that she was still on medical leave and recovering from surgery. Appellant also indicated that her dual role in the current position as human resources specialist and office administrator required repetitive bending, pulling, fine grasping, manipulation of forms, lifting and moving boxed frames and batches of certificates and paper, and pulling various forms from files. She also alleged a poor ergonomic set up of her work station.

The record reflects that appellant's prior claims were all accepted for medical treatment.

On April 3, 2014 Justina Bennett, a physician assistant, noted that appellant was under her care for carpal tunnel syndrome. She noted that appellant's condition was worsening and her surgical consultation date was April 22, 2014. Ms. Bennett noted that until that time appellant could work light duty.

In an April 28, 2014 note, Dr. Helmut Pfalz, a Board-certified hand surgeon, noted a hand and upper extremity consultation for carpal tunnel syndrome, which was mild on electromyogram (EMG) in the past. He ordered new electromyograms and a magnetic resonance imaging (MRI) scan for purposes of evaluation and treatment.

On June 5, 2014 Dr. Paul H. Griffith, a Board-certified orthopedic surgeon, indicated that appellant was evaluated in his office on May 19, 2014 for cervical spine pain. He noted that he subsequently referred her for an MRI scan and determined that surgery was indicated. Dr. Griffith noted that appellant had been diagnosed with cervical spondylosis, cervicgia, brachial neuritis, and neck pain. He noted that an anterior cervical disc fusion at C4-5 was scheduled for August 12, 2014. In a discharge report dated June 12, 2014, Dr. Griffith listed appellant's medical problem as cervical spondylosis with radiculopathy.

By letter dated July 16, 2014, OWCP informed appellant that further factual and medical evidence was needed to support her claim. Appellant was advised that she should submit a comprehensive medical report from a qualified physician, which included an opinion, supported

by medical rationale, as to how factors of her federal employment caused or aggravated a diagnosed condition. She was afforded 30 days to provide this evidence.

In response, appellant submitted a letter wherein she indicated that her diagnosis was medically documented as bilateral carpal tunnel syndrome, arthritis, and collapsed disc in her neck. She discussed her medical and work history.

In July 2 and 28, 2014 work status notes, Dr. Griffith found that appellant was unable to work until September 8, 2014. In the July 28, 2014 progress note, he assessed appellant with cervicalgia, cervical spondylosis without myelopathy, brachial neuritis or radiculitis, and postsurgical arthrodesis. Dr. Griffith noted that appellant had initially responded quite favorably to her cervical fusion surgery. He recommended continuing with protective activities and increasing her use of the upper body as symptoms allowed. In an August 8, 2014 report, Dr. Griffith stated that appellant had been his patient since May 2014 and that she suffered progressive cervical pain and dysfunction as a result of advanced cervical spondylosis. He noted that, because her symptoms have become so severe and because they were interfering with her ability to perform her job, she underwent cervical fusion surgery on June 12, 2014 and that she initially responded quite favorably to the operation with a significant reduction in neck pain and upper summary symptoms. Dr. Griffith noted that, while appellant's problems were degenerative in nature, the physical demands of her job such as repetitive bending, lifting, and carrying have significantly exacerbated her condition. He noted that appellant was still in recovery from her surgery, but would hopefully be able to return in another six weeks. Dr. Griffith opined that at that time she was to avoid lifting more than 10 pounds and avoid the repetitive use of her upper extremities at or above shoulder level. On September 9, 2014 he indicated that appellant could return to regular work activity on September 9, 2014.

In a May 2, 2014 MRI scan of the right wrist received by OWCP on September 18, 2014, Dr. Joseph P. Finizio, a Board-certified diagnostic radiologist, noted degenerative changes, navicular trapezial and trapezial first metacarpal joint with early erosive changes, and no prominent enhancement postgadolinium reassessment, nor evidence of thickening of the flexor retinaculum appreciated.

By decision dated September 16, 2014, OWCP denied appellant's claim as the medical evidence did not establish that her medical conditions were causally related to the established employment events.

On September 23, 2014 appellant requested review of the written record before an OWCP hearing representative of the Branch of Hearings and Review.

By decision dated March 18, 2015, the hearing representative affirmed OWCP's September 16, 2014 decision. The hearing representative found that appellant had not submitted sufficient evidence to establish that she sustained a medical condition causally related to her work environment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.<sup>6</sup> To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>7</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

### **ANALYSIS**

OWCP has accepted the alleged factors of employment and that appellant has several diagnosed medical conditions. However, appellant's claim was denied as she failed to establish a causal relationship between the diagnosed medical conditions and the accepted factors of her federal employment. The Board finds that OWCP properly denied appellant's claim.

While appellant submitted a number of medical reports to the record, none of the physicians provided a rationalized medical opinion establishing a causal relationship between the accepted factors of her federal employment and her medical diagnoses. Most of the reports from Dr. Griffith addressed his treatment of appellant for various medical conditions including

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<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *See S.P.*, 59 ECAB 184, 188 (2007).

<sup>7</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see also P.W.*, Docket No. 10-2402 (issued August 5, 2011).

<sup>8</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 5.

cervical spondylosis, cervicalgia, and brachial neuritis. The August 8, 2014 report was the only medical report wherein Dr. Griffith discusses causal relationship. In this report, Dr. Griffith noted that while appellant's problems were degenerative in nature, the physical demands of her job such as repetitive bending, lifting, and carrying have significantly exacerbated her condition. Under FECA, when employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for the periods of disability related to this aggravation.<sup>9</sup> However, Dr. Griffith's brief statement on causation is not sufficient to establish causal relationship. He does not address the specifics of appellant's job in that he does not discuss the type and amount of repetitive bending, lifting, or carrying required by her employment. Dr. Griffith's report is therefore not based upon a complete and accurate history of injury. A report from appellant's physician must provide sufficient medical rationale based on a complete factual background explaining the reasons why her diagnosed conditions were caused or aggravated by particular employment duties.<sup>10</sup> Dr. Griffith also does not provide a specific medical explanation as to why appellant's medical diagnoses are related to her employment and not solely to her underlying condition. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is insufficient to meet a claimant's burden of proof.<sup>11</sup>

Likewise, appellant's diagnostic studies, including the MRI scan conducted by Dr. Finizio are of limited probative value as they do not address appellant's employment factors or give an opinion on causal relationship.<sup>12</sup> Similarly, Dr. Pfalz did not address causal relationship. Therefore, his report is of limited probative value.<sup>13</sup>

The Board further notes that the opinion of physician assistant Ms. Bennett is not considered probative medical evidence as she is not considered a physician under FECA.<sup>14</sup>

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that the condition was caused by her employment is sufficient to establish causal relationship.<sup>15</sup> As appellant did not establish that her medical condition was causally related to the accepted factors of her employment, she has failed to meet her burden of proof.

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<sup>9</sup> *Raymond W. Behrens*, 50 ECAB 221 (1999); *see also L.C.*, Docket No. 15-0436 (issued January 20, 2016).

<sup>10</sup> *See V.C.*, Docket No. 14-1124 (issued November 3, 2014).

<sup>11</sup> *F.S.*, Docket No. 15-1052 (issued July 17, 2015).

<sup>12</sup> *G.M.*, Docket No. 14-2057 (issued May 12, 2015).

<sup>13</sup> *G.C.*, Docket No. 16-0007 (issued February 12, 2014); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>14</sup> 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law). *See also David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

<sup>15</sup> *D.I.*, 59 ECAB 158 (2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant did not establish an injury causally related to the factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 18, 2015 is affirmed.

Issued: April 4, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board